

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Lorrie Adams,		NOTICE OF DETERMINATION OF
	Complainant,	PRIMA FACIE VIOLATION
vs.		AND
Klatt True Value Hardware Electric,		NOTICE OF AND ORDER FOR
	Respondent.	PROBABLE CAUSE HEARING

TO: Lorrie Adams, [Street Address Redacted], Buffalo, MN 55313; and Klatt True Value Hardware Electric, 1215 Highway 25 North, Buffalo, MN 55313.

On October 13, 2008, Lorrie Adams filed a Campaign Complaint with the Office of Administrative Hearings alleging that Klatt True Value Hardware Electric violated Minnesota Statutes §§ 211B.15, subd. 2, and 211B.15, subd. 11.¹ After reviewing the Complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the Complaint sets forth a prima facie violation of only Minnesota Statutes § 211B.15, subd. 2. The alleged violation of Minn. Stat. § 211B.15, subd. 11, is dismissed.

THEREFORE, IT IS ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a probable cause hearing to be held by telephone before the undersigned Administrative Law Judge at **11:00 a.m. on Friday, October 17, 2008**. The hearing will be held by call-in telephone conference. You must call: **1-888-566-4893** at that time. When the system asks for your numeric pass code, enter **"12001#"** on your phone and you will be connected to the conference. The probable cause hearing will be conducted pursuant to Minnesota Statutes § 211B.34. Information about the probable cause proceedings and copies of state statutes may be found online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the probable cause hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if that choice is not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should provide to the Administrative Law Judge all evidence bearing on the case, with copies to the opposing party, before the telephone conference takes place. Documents may be emailed to Judge Mihalchick at Steve.Mihalchick@state.mn.us or faxed to 651-361-7936.

¹ The Complaint identified Chapter "211B, subd. 2 and subd. 11" as the statute that has been violated. Based on the Complainant's description of the complaint, it is clear that the Complainant is alleging violations of Chapter 211B.15, subds. 2 and 11.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the complaint has occurred; or (2) determine that there is probable cause to believe that the violation of law alleged in the complaint has occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minnesota Statutes § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minnesota Statutes § 211B.34, subdivision 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, MN 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TDD).

Dated: October 14, 2008

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge

MEMORANDUM

The Complaint alleges that Respondent Klatt True Value Hardware Electric violated Minn. Stat. § 211B.15 by posting campaign lawn signs promoting the re-election of Representative Bruce Anderson. Respondent Anderson is the incumbent candidate for Minnesota House of Representatives District 19A.

Minnesota Statutes § Section 211B.15, subd. 2, prohibits corporations from making contributions to an individual to promote the individual's candidacy or election to political office within Minnesota. The statute defines "corporation" to mean: "(1) a corporation organized for profit that does business in this state; (2) a nonprofit corporation that carries out activities in this state; or (3) a limited liability company formed under chapter 322B, or under similar laws of another state, that does business in this state."²

The Complaint alleges that Respondent Klatt True Value is a corporation as defined in the statute. The Complainant has attached information from the Minnesota

² Minn. Stat. § 211B.15, subd. 1 (2008).

Secretary of State's website identifying Klatt True Value Electric as a domestic corporation. The Complaint further alleges that Respondent's location on Minnesota Highway 25 is heavily traveled and provides excellent advertising for Representative Anderson's re-election campaign. According to the Complaint, billboard space on the same road is valued at approximately \$800-1200 per month. The Complaint asserts that by posting Representative Anderson's campaign signs on its property, Respondent Klatt True Value made a prohibited corporate contribution of significant value to Representative Anderson's campaign in violation of Minn. Stat. § 211B.15, subd. 2.

The Complaint also alleges that by posting the lawn signs on behalf of Representative Anderson's candidacy on its property, Respondent Klatt True Value violated Minn. Stat. § 211B.15, subd. 11.

Subdivision 11 provides an exception to the general prohibition against corporate campaign contributions found at Minn. Stat. § 211B.15, subd. 2. It allows corporations to post messages on their premises that promote voter participation provided the messages are not controlled by or operated for the advantage of a particular candidate or political party. The statute is written in the negative, but it makes it clear that it is a violation for corporations to post messages that promote participation in elections if the messages are controlled by or operated for the advantage of a candidate. However, posting signs to promote a particular candidate would be a violation of subdivision 2 (prohibited contributions), and not subdivision 11.

After reviewing the Complaint and its attachments, the Administrative Law Judge concludes that the Complaint sets forth a prima facie violation of Minn. Stat. § 211B.15, subd. 2. This matter will proceed to a probable cause hearing as scheduled by this Order. Because subdivision 11 merely provides an exception to the prohibition against corporate contributions found at subdivision 2, the complaint fails to allege a prima facie violation of Minn. Stat. § 211B.15, subd. 11, as against Klatt True Value Hardware and this allegation is dismissed.

S.M.M.